

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

OSCAR SMITH,)
)
Petitioner,)
)
v.) No. 3:99-0731
) Judge Trauger
RICKY BELL, WARDEN,)
)
Respondent.)

O R D E R

The petitioner is a death-row inmate. He brings this action under 28 U.S.C. § 2254, challenging the constitutionality of his conviction and sentence.

As provided in the memorandum entered contemporaneously herewith, the following are hereby ORDERED:

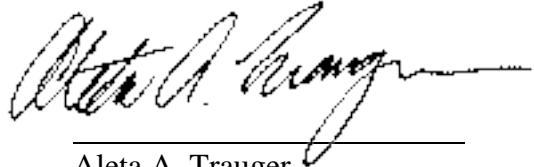
- 1) The petitioner's motion for a *de novo* review of all his claims under the Schiavo Act (DE # 195) is DENIED.
- 2) The petitioner's request for "plenary review" of his claims based on allegations that Dr. Charles Harlan engaged in professional misconduct (DE # 189) is DENIED.
- 3) The petitioner's motion for summary judgment (DE # 32) is DENIED.
- 4) The respondent's motion for summary judgment (Docket Entry No. 35) is GRANTED.
- 5) The petitioner's petition for federal *habeas corpus* relief, and all amendments thereto (Docket Entry Nos. 1, 18, 186), are DENIED, and this action is DISMISSED. Rule 8, Rules – 2254 Cases.

Should the petitioner file a timely notice of appeal from this Order, such notice shall be docketed as both a notice of appeal and an application for a certificate of appealability, 28 U.S.C. § 2253©; Rule 22(b), Fed. R. App. P.; *see Slack v. McDaniel*, 529 U.S. 473, 483 (2000), which will

not issue because the petitioner has failed to make a substantial showing of the denial of a constitutional right. *Castro v. United States of America*, 310 F.3d 900, 901 (6th Cir. 2002)(citing *Lyons v. Ohio Adult Parole Auth.*, 105 F.3d 1063, 1072 (6th Cir. 1997) and *Murphy v. Ohio*, 263 F.3d 466, 467 (6th Cir. 2001)).

Entry of this Order shall constitute the judgment in this action.

It is so ORDERED.



Aleta A. Trauger
United States District Judge